Progress Report on SF 2293

Landmark livestock legislation, Senate File 2293, was developed by a 12-member bipartisan committee to address the contentious issues that surround the siting and management of large confinement feeding operations in Iowa. Passed by the 79th General Assembly and enacted on April 29, 2002, SF 2293 provides for counties to have input on locating confinements, for fees to provide for DNR inspectors and for regulation of air quality near confinements.

Siting

Master Matrix – effective March 1, 2003, adopted January 21, 2003

The legislation required DNR to develop and serve on a 10-member statewide committee charged with identifying environmental and community impact issues that should be considered when a proposed permitted site is evaluated.

From the onset, the DNR's goal for the committee was to reach consensus on the matrix and to accept the committee's recommendations. The committee met from June through September, 2002, and proposed a matrix that included 44 factors addressing air quality, water quality and community impacts. The DNR and the pork industry evaluated existing facilities to field-test the factors and the scoring. The committee did not reach consensus on scoring. When rules were proposed to the Environmental Protection Commission (EPC), the DNR recommended requiring scores in air, water and community impact subcategories. The EPC approved a total score of 50% and 25% in each of the three subcategories.

Committee Members

- Iowa Department of Agriculture & Land Stewardship
- Iowa Department of Natural Resources
- Iowa Environmental Council
- Iowa Farm Bureau Federation
- Iowa Farmer's Union
- Iowa Pork Producers
- Iowa Poultry Federation
- Iowa State Association of Counties
- Iowa State University
- University of Iowa

Interim Matrix – in effect July 23, 2002 to March 1, 2003

The interim matrix was created by the legislature for the DNR to use in evaluating proposed confinement operations prior to the master matrix.

County Resolution to adopt the Master Matrix – effective February 1, 2003

Counties that adopt a construction evaluation resolution have the authority to evaluate and make recommendations on proposed permitted confinement sites using the master matrix. They can also have a county representative accompany the DNR on the site inspection. If the proposed site meets state requirements but does not attain a minimum score on the master matrix, the confinement structure will be denied a construction permit. However, the DNR must agree with the county's evaluation and an applicant has the right to appeal.

100-Year Floodplains – in process

The statute was written to prevent building confinement feeding operation structures in the 100-year floodplain of major water sources, recognizing that many 100-year floodplains are not yet mapped in Iowa. Until the DNR designates the location of each 100-year floodplain by rule, the construction prohibition applies to proposed structures that would be located on alluvial soils. If the proposed site is on alluvial soils, the DNR must do a floodplain determination. If the DNR determines that the proposed site would not be built on the 100-year floodplain of a major water source, then the structure can be built.

- To assist smaller producers who are planning unpermitted facilities, the DNR staff reviews those sites for alluvial soils and the proximity to a "major water source." The DNR's preliminary review helps producers decide if they need to petition for a declaratory order and benefits the DNR by increasing the accuracy of the determinations and limiting the number of petitions. Some applicants with proposed sites on alluvial soils can be encouraged to move to non-alluvial locations.
- Those with sites on alluvial soils near a "major water source" are told that they must petition the DNR for a declaratory order if they want to proceed with the project. The floodplain section then receives the petition and makes a case-by-case determination of the elevation and extent of the 100-year floodplain using site specific information.

For more information, visit www.iowadnr.com

Siting (cont.)

Karst

The bill banned construction of unformed manure storage structures in karst terrain, effective on April 29, 2002. The DNR further defined karst (as it relates to unformed structures) to allow construction of earthen basins if a 25-foot separation can be maintained between the floor of an unformed structure and soluble rock. This exception becomes effective March 1, 2003. The DNR will work with producers to help them assess how this provision will impact their operations.

Construction

Standards and Statements

The department is currently developing concrete standards for all livestock structures.

Construction design statements are required for proposed confinement structures and expansions greater than 500 animal units. For larger permitted facilities and earthen basins, a professional engineer must certify that the construction meets DNR standards, effective March 1, 2003. Rulemaking will occur within this fiscal year.

Inspections

The DNR has always conducted site surveys for permitted sites before a construction permit is issued by the DNR. The DNR inspector determines if the proposed site (or expansion) meets the required separation distances. The increase of staff inspections has warded off potential problems with contractors.

The permits issued to confinement feeding operations since early summer have required the producer/ owner to contact the DNR field office so that DNR staff can inspect the structure before slatted flooring is installed, greatly improving the visibility of concrete pits.

Other items addressed during construction inspections include:

- the status of the pollution prevention plan for storm water,
- location of wells.
- if construction is according to plans, and
- if debris is properly disposed.

Air Quality

Proposed Ambient Air Quality Standards

Proposed rules would establish ambient air quality standards for hydrogen sulfide and ammonia based on the Iowa Concentrated Animal Feeding Operations Air Quality Study conducted by Iowa State University and the University of Iowa. The DNR is exploring different options based on comments received from 86 individuals or groups who responded to a call for public comments and six public hearings.

The majority of the comments addressed the following areas:

- waiting until 2004 to enforce the standards,
- 8 exceedances before a violation,
- where monitoring can occur (community-oriented monitoring site),
- whether or not the department is following legislative intent,
- how to determine who caused the exceedance or violation, and
- no proposed odor standard

Many comments were received from industrial sources about DNR's proposal of ambient air quality standards which would apply to all potential sources that could cause health effects, not just animal feeding operations. The DNR plans to revise the proposed rule based on comments and present it to the EPC in April. Enforcement of these standards shall not occur prior to December 1, 2004.

Progress Report SF 2293	Complete	In Progress
Master Matrix	✓	
County Resolution	✓	
Floodplain		✓
Karst	✓	
Construction Inspections	✓	
Air Quality		✓
Nutrient Strategy		✓
Manure Management Plans	✓	
Phosphorus Index		✓
Fish Kill Restitution	✓	

Air Quality (cont.)

Proposed Ambient Air Sampling Model

This rulemaking would establish an Ambient Air Sampling Manual that will be incorporated by reference in Chapter 28 of the Iowa Administrative Code. This manual will contain siting requirements for monitors, data handling procedures, approved monitoring methods and equipment, and quality assurance requirements for determining compliance with the proposed hydrogen sulfide and ammonia standards after December 1, 2004.

Proposed Ambient Air Standards

A) **Ammonia** (Primary Standard): 0.15 ppm by volume maximum daily one-hour average not to be exceeded more than seven times per year (applicable at community-oriented monitoring sites).

B) **Hydrogen Sulfide** (Primary Standard): 0.015 ppm by volume maximum daily one-hour average not to be exceeded more than seven times per year (applicable at community-oriented monitoring sites).

Nutrient Management

Nutrient Strategy

The DNR is preparing a document to describe nitrogen and phosphorus inputs and outputs from Iowa's watersheds. This nutrient budget includes an assessment of the current status of nutrient concentrations in the state's streams and lakes. The DNR intends to have a sufficiently detailed nutrient budget and assessment to allow for public presentation by August, 2003. A report will be presented to the legislature in January 2004. Refinements to the budget and assessment will continue, and will aid in the design and testing of a statewide nutrient strategy.

Manure Management Plans – annual submittal effective March 1, 2003

Senate File 2293 required annual submittal of manure management plans (MMP), with an accompanying annual compliance fee designed to fund 12 new environmental field specialists. The DNR has designed two ways for an MMP to be submitted: on paper forms or electronically using the e-MMP, which also includes some paper submittal. The eMMP and revised MMP forms were posted on the web in January. Staff is investigating fee payment by credit card.

The DNR mailed approximately 3,000 producers advance notice of this new program in January, 2003. A list of affected producers was also mailed to each county. The DNR plans to ask for MMP updates on a 12-month staggered schedule. A second letter will be mailed to 1/12 of the producers each month, giving them 45 days to submit an updated MMP and the compliance fee. The DNR will provide copies of each letter to the respective county board of supervisors. The department is also working with producers who have multiple sites to allow them to manage them appropriately. To keep producers informed, fact sheets will be produced and the DNR web page will be updated as new information is written.

Phosphorus Index

The DNR has been in preliminary discussions with the USDA-Natural Resources Conservation Service (NRCS) and Iowa State University to develop a phosphorus index that is consistent with the NRCS 590 standard and federal requirements for nutrient management plans. A work plan is currently being developed.

Fish Kills – effective October 9, 2002

The DNR proposed a new rule outlining procedures and criteria for determining, valuing and recovering compensation for injuries to wild animals (e.g., a fish kill) caused when a pollutant is released. The proposed rule was published in June, followed by 15 public hearings. Twenty four comments were received. All of the comments supported the rules, although some indicated that we should be more "severe."

Generally, the DNR will use the methods to determine and evaluate fish losses outlined in the most recent edition of the American Fisheries Society [AFS], "Special Publication, Investigation and Valuation of Fish Kills." For listed species, the value of fish will be determined by AFS or at $15 per fish, whichever is higher. Endangered

Fish Kills (cont.)

or threatened species will be valued at $1,000. For wild animal species other than fish, values will be determined by the professional judgement of technical staff and available literature and guidance. The DNR may recover the value of fishing trips lost to the public over the period of the resource loss, and the costs of investigation.

Money received will be used to replace, restore or rehabilitate the lost or damaged resources, including resource acquisition.

Other Topics

Final EPA AFO/CAFO Rule

The federal US Environmental Protection Agency rule is under review by the department. Staff is working with Iowa State University and commodity groups to develop an information plan to educate Iowa livestock producers on the impacts of this federal legislation.

Decentralization

The legislation granted the department 12 full time employees (FTE). Two additional employees were decentralized from MMP review. The department began filing the vacant positions in September 2002. Decentralization began with the annual MMP review responsibilities being moved to field offices. This will allow the DNR to complete record reviews and to provide one-on-one educational opportunities with livestock producers.

Field Office 1
- 1 new Environmental Specialist

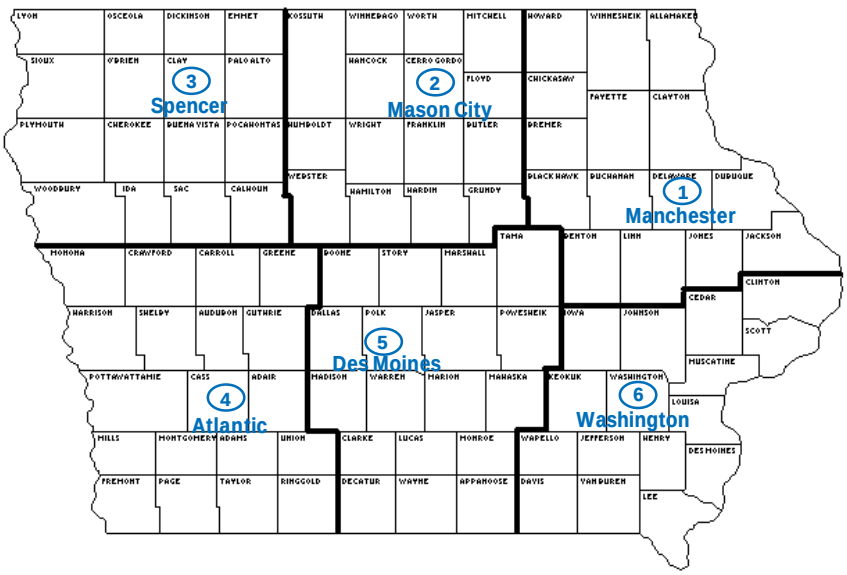
Field Office 2
- 2 Environmental Specialists
- 2 Environmental Specialist Seniors

Field Office 3
- 3 Environmental Specialists
- 1 Environmental Specialist Senior

Field Office 4
- 1 new Environmental Specialist

Field Office 5
- 2 Environmental Specialists
- 1 Environmental Specialist Senior

Field Office 6
- 1 new Environmental Specialist



Update on Senate File 503 - Open Feedlots

The DNR has met with commodity groups and other government agencies to build consensus on design standards for open feedlots. The group's goal was to establish guidelines for new rules governing construction of settled open feedlot effluent basins as required by Senate File 503.

Senate File 503 specifically requires that the DNR establish design standards by rule for any permitted or unpermitted open feedlot basins. Factors that must be considered in the design standards include specific design characteristics of open feedlots, including the dilute composition of settled open feedlot effluent.

The DNR is drafting a set of engineering rules for open feedlots. Within these rules, special consideration is given to meet the same engineering parameters as confinement, but with the ability to meet the unique environmental challenges of open feedlots and to make distinctions between new and existing sites.

Currently, the DNR plans to have all in-house-high-priority feedlots on a compliance schedule by the end of 2003. All in-house-high-priority lots, particularly those over 1000 head, will have on-site assessments by the end of 2003. There are currently 1582 feedlots registered under the Iowa plan for open feedlots.